

## House, John

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**From:** Berntsen, Teresa E  
**Sent:** Tuesday, April 13, 2004 2:59 PM  
**To:** a Phil Wayt (E-mail); A Katie Jacoy (E-mail)  
**Cc:** Ensign, Heidi E; Reynolds, Randy S  
**Subject:** wine price posting rules

**Importance:** High

Hi Phil and Katie, here are our proposed changes to the wine price posting rules. We are going to approach the Board next week to ask for filing of an expedited rule making, which means we go straight to rule language, no public hearing. We do not believe this makes any substantive changes--it deletes language redundant with the RCW that was never taken out when the RCW was created, cleans up language, and makes the changes to implement SB 6737.

If you have any major heartburn with this rule, I would appreciate knowing as soon as possible. (Phil, we just tried to do with wine the same thing we did with beer).

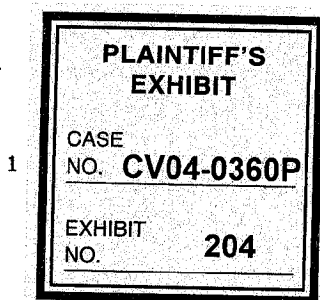
Thank you very much,

*Teresa*

Teresa Berntsen  
Policy, Legislative, and Media Relations  
Washington State Liquor Control Board  
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## Proposed changes to WINE price posting rules to implement SB 6737 DRAFT 4-13-04

Purpose of rule changes:

- Implement changes made in SB 6737
- Combine and simplify rules
- Take out redundancy with RCWs (RCW 66.28.180)

Redundant  
with RCW.

New  
opening so  
people know  
what this  
WAC is  
about.  
Definitions  
for clarity.

### Proposed Revised WAC 314-24-190 Wine supplier and distributor

price postings. ~~((1) Every wine distributor shall file with the board at its office in Olympia a wine price posting, showing the wholesale prices at which any and all brands of wine offered for sale by such wine distributor shall be sold to retailers within the state.))~~ RCW 66.28.180 requires wine distributors and suppliers to file price postings with the board.

(1) Definitions--For the purposes of this section:

(a) A wine supplier means a domestic winery, certificate of approval holder, wine importer, or a distributor selling wine to another distributor.

(2) Filing deadlines.

#### (a) Wine supplier filing deadlines

All price postings, distributor appointments, written contracts, and memoranda of oral agreements must be received by the board not later than the twenty-fifth day of the month, and if approved will become effective on the first day of the second calendar month following the date of filing.

#### (b) Wine distributor filing deadlines

~~((2))~~ All price postings must be received by the board not later than the tenth day of the month, and if approved will become effective on the first day of the calendar month following the date of ~~((such))~~ filing.

(c) The board will allow up to an additional five days for revisions of filings to correct errors and omissions filed during the current posting period. The board may in individual cases, for good cause shown, extend the filing date.

(d) When ~~((any))~~ a price posting ~~((to be filed with the board under the provisions of this rule))~~ has been deposited in the United

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Clarify

States mail addressed to the board, it ~~((shall))~~ will be deemed filed or received on the date shown by the United States post office cancellation mark on the envelope ~~((containing it))~~, or on the date it was mailed if ~~((proof satisfactory to))~~ it is established to the satisfaction of the board ~~((establishes))~~ that the actual mailing occurred on an earlier date.

(3) **Filing date exception**--Whenever the tenth day of any month falls on Saturday, Sunday, or a legal holiday, ~~((an original))~~ a price posting may be filed not later than the close of business the next business day.

(4) **No changes from previous month**--~~((In the event that a))~~ If a wine supplier or distributor ~~((determines to))~~ makes no changes in any items or prices listed in the last filed and approved ~~((schedule))~~ price posting, ~~((such))~~ the prices ~~((listed in the schedule previously filed and in effect, shall))~~ will remain in effect for each succeeding calendar month until a revised ~~((or amended schedule))~~ price posting is filed and approved ~~((as provided herein))~~.

(5) ~~((Provision for filing of t))~~ **Temporary price reductions**--~~((In the event))~~ If a wine supplier or distributor ~~((elects to))~~ files price postings that list ~~((ing))~~ selected items on which prices are temporarily reduced for ~~((a period of))~~ one ~~((calendar month))~~ posting period only, ~~((such filing shall be made on special forms provided for such purpose and))~~ these price postings must clearly reflect all items, the selling price ~~((thereof))~~, and the ~~((month))~~ posting period for which the price reductions will be in effect. At the expiration of the ~~((month))~~ posting period during which ~~((such))~~ the reductions were in effect ~~((ive))~~, the special ~~((filing))~~ price posting will become void and the last regularly filed and effective price ~~((schedule shall))~~ posting will again become effective ~~((until subsequently amended pursuant to regular filing dates))~~.

Redundant with RCW.

~~((45) Postings shall be submitted upon forms prescribed and furnished by the board, or a reasonable facsimile thereof, and shall set forth:~~

~~((a) All brands, types and sizes of packages or containers of wine offered for sale in this state by such wine distributor, which packages or containers shall be limited to the sizes permitted in WAC 314-24-080.~~

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Redundant  
with RCW.

~~(b) The wholesale prices thereof within the state, which prices shall include the state wine tax plus surcharge of \$0.2192 cents per liter imposed under RCW 66.24.210 and 82.02.030.~~

~~(6) No wine distributor shall sell or offer for sale any package or container of wine at a price differing from the price of such item as shown in the price posting then in effect.~~

~~(7) Quantity discounts are prohibited. No price shall be posted which is below acquisition cost plus ten percent of acquisition cost.~~

~~(8) Wholesale prices on a "close-out" item shall be accepted by the board when the item to be discontinued has been listed on the state market for a period of at least six months, and upon the further condition that the distributor who posts such a "close-out" price shall not restock the item for a period of one year following the first effective date of such "close-out" price.~~

See new  
subsection  
(6), which  
was  
rewritten  
for clarity.

~~(9) If an existing written contract or memorandum of oral agreement between a domestic winery, certificate of approval holder, wine importer, or wine distributor and a distributor, as filed in accordance with WAC 314-24-200, is terminated by either party, and a new written contract or memorandum of oral agreement is made by such a supplier with another wine distributor in the affected trade area, the board, after receiving such new written contract or memorandum of oral agreement, and a corresponding wholesale price posting from the newly designated wine distributor, may put such filings into effect immediately: Provided, That prices and other conditions of any such filings which are in effect at the time of such termination shall not be changed prior to the next applicable filing period.)~~

New  
language to  
clarify,  
based on  
WAC 314-  
24-190(9).

(6) Distributor changes--(a) The following guidelines apply when a wine supplier makes a distributor change outside of the regular distributor appointment timelines outlines in subsection (2) of this rule:

(i) The supplier must notify the board in writing that he/she wishes to change from his/her current distributor and appoint a new distributor to be effective immediately.

(ii) The new distributor must agree to take the currently posted prices of the old distributor until the new distributor is able to post his/her own prices during the next regular posting period.

(iii) The board does not enforce territory or brand agreements between wine suppliers and distributors. However, if a wine supplier

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has a territory or brand agreement with a distributor and wants to change a distributor appointed to a certain brand(s) or territory(ies), the board will allow the new distributor to assume the prior distributor's price postings for the brand and/or territory in order to avoid disruption of the market.

(b) A wine supplier must notify the board if any of the contracts or agreements listed in this rule are revised or terminated by either party. The board may immediately authorize a price posting if a wine distributor assumes the wholesale price postings from the previously appointed distributors.

(c) Prices and other conditions of price postings in effect at the time of the distributor change may not be changed until subsequent filing are submitted to the board and become effective.

Clarify.

~~((10))~~ (7) Price postings for new wine distributors--When the board issues a new wine distributor's license ~~((is issued for the first time by the board))~~, the ~~((holder thereof))~~ licensee may file an initial price ~~((schedule))~~ posting and request that ~~((such))~~ the posting be placed into effect immediately. The board may grant ~~((such))~~ this immediate approval ~~((, providing that such))~~ if the posting is in compliance with this rule and with all other applicable ~~((regulatory requirements, and that contracts and memoranda are on file, in accordance with WAC 314-24-200))~~ laws and rules.

~~((11)) The board may reject any price posting or portion thereof which it deems to be in violation of this or any other regulation or which would tend to disrupt the orderly sale and distribution of wine. Whenever the board shall reject any posting the licensee submitting said posting may be heard by the board and shall have the burden of showing that the posting is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of wine. Thereupon if said posting is accepted it shall become effective at a time fixed by the board. If said posting or portion thereof is rejected the last effective posting shall remain in effect until such time as an amended posting is filed and approved in accordance with the provisions of this regulation.~~

~~((12)) Any wine distributor or employee authorized by his/her distributor employer may sell wine at the distributor's posted prices to any authorized licensee upon presentation to such distributor or employee at the time of purchase of a special permit issued by the~~

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~~board to such licensee.~~

~~— (a) Every authorized retail licensee, upon purchasing any wine from a distributor, shall immediately cause such wine to be delivered to his licensed premises, and he shall not thereafter permit such wine to be disposed of in any manner except as authorized by his license.~~

~~— (b) Wine sold as provided herein shall be delivered by such distributor or his authorized employee either to such retailer's licensed premises or directly to such retailer at the distributor's licensed premises. Provided, however, That a distributor's prices to retail licensees shall be the same at both places of delivery.~~

~~— (13) All price postings filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential. ) )~~

Add  
language  
based on  
WAC 314-  
24-200(7).

(9) Accommodation sales--The provisions of subsection (1) through subsection (8) of this rule do not apply, and filings are not required, when wine distributors make accommodation sales to other wine distributors and these sales are made at a selling price that does not exceed the laid-in cost of the wine being sold.

Accommodation sales may only be made when the distributor purchasing the wine is an appointed distributor of the supplier, when the distributor is an authorized purchaser of the brand and product being sold, and when the supplying distributor is appointed by the supplier.

Delete  
entire rule,  
language  
was either  
put into  
WAC 314-  
20-100 or  
redundant  
with RCW.

~~WAC 314-24-200 Wine suppliers' price filings, contracts and memoranda. (1) Every domestic winery shall file with the board at its office in Olympia a copy of every written contract and a memorandum of every oral agreement which such winery may have with any wine distributor, which contracts or memoranda shall contain a schedule of the prices charged to distributors for all items. Requirements for including or omitting from such prices the wine tax plus surcharge of \$0.2192 cents per liter, imposed under RCW 66.24.210 and 82.02.030, are set forth in subsection (8) of this section. Contracts and memoranda required to be filed under this subsection must list all terms of sale, including all regular and special discounts, all advertising, sales and trade allowances, and all commissions, bonuses or gifts and any and all other discounts or allowances. Whenever changed or modified such revised prices, contracts or memoranda shall be filed with the board, as provided~~

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~~in this regulation.~~

~~Each price schedule shall be made on a form prepared and furnished by the board, or a reasonable facsimile thereof, and shall set forth all brands, types, packages and containers of wine offered for sale by such licensed domestic winery, all additional information required may be filed as a supplement to said price schedule forms.~~

~~(2) Filing date All written contracts and memoranda of oral agreements must be received by the board not later than the twenty fifth day of the month, and if approved will become effective on the first day of the second calendar month following the date of such filing. An additional period will be allowed for revision of such filings to correct errors and omissions, or to meet competitive prices, filed during the current posting period, but a revised contract or memorandum of oral agreement must be on file with the board not later than the first day of the month in order to become effective on the first day of the next calendar month: Provided, That the board may in individual cases, for good cause shown, extend the date on which the filings required by the rules are to be received by the board.~~

~~When any price posting to be filed with the board under the provisions of this rule has been deposited in the United States mail addressed to the board, it shall be deemed filed or received on the date shown by the post office cancellation mark on the envelope containing it or on the date it was mailed if proof satisfactory to the board establishes that the actual mailing occurred on an earlier date.~~

~~(3) Filing date exception Whenever the twenty fifth day of any month falls on Saturday, Sunday, or a legal holiday, an original contract or memorandum of oral agreement may be filed not later than the close of business the next business day.~~

~~(4) Exceptions for changes in distributors and newly licensed distributors are set forth in WAC 314 24 190 (9) and (10).~~

~~(5) In the event that a domestic winery determines to make no changes in any contracts or memoranda last filed and then in effect, such contracts or memoranda shall remain in effect for each succeeding calendar month until revised or amended contracts or memoranda are filed and placed into effect as provided herein.~~

~~Provision for filing of temporary price reductions In the event a licensed domestic winery elects to file postings listing selected items on which prices are temporarily reduced for a period of one calendar month only such filing shall be made on special forms provided for such~~

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~~purpose and clearly reflect all items, the selling price thereof, and the month for which the price reductions will be in effect. At the expiration of the month during which such reductions were effective the special filing will become void and the last regularly filed and effective price schedule shall again become effective until subsequently amended pursuant to regular filing dates.~~

~~(6) Prices filed by a domestic winery shall be uniform prices to all distributors on a state wide basis less bona fide allowances for freight differentials. Quantity discounts are prohibited. No price shall be filed which is below acquisition cost plus ten percent of acquisition cost. Provided, That acquisition cost plus ten percent of acquisition cost shall not apply to sales of wine between a wine importer who sells wine to a wine distributor, or to a wine distributor who sells wine to another wine distributor.~~

~~(7) The provisions set forth in subsections (1), (2), (3), (4), (5) and (6) of this section shall also apply to written contracts and memoranda of oral agreements which must be filed with the board by certificate of approval holders who sell wine to wine importers, wine importers who sell to wine distributors, and wine distributors who sell to other wine distributors. Provided, That the provisions of this subsection shall not apply, and filing will not be required, in the instance of wine distributors making accommodation sales to other wine distributors when such sales are made at a selling price not to exceed the laid in cost of the wine being sold. Accommodation sales may only be made when the distributor purchasing the wine is an authorized purchaser of the brand and product being sold, having been designated as an authorized purchaser by the manufacturer or importer of the product being sold, as demonstrated by an existing contract or memoranda on file and in effect under the provisions of this rule.~~

~~(8) The wine tax plus surcharge, imposed under RCW 66.24.210 and 82.02.030, is not to be included in the prices filed as required by subsection (1) of this section by (a) a domestic winery, nor (b) by a certificate of approval holder who is not licensed as a wine distributor, nor (c) a wine importer who is not licensed as a wine distributor.~~

~~Every wine distributor who sells wine to another wine distributor shall include such tax in the prices posted on such required schedules.~~

~~(9) No domestic wineries, certificate of approval holders, wine importers, or wine distributors shall sell any wine to any persons whatsoever in this state until copies of such written contracts or~~



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~~memoranda of such oral agreements are on file with the board.~~

~~(10) Certificate of approval holders may ship wine into this state when the same has been sold and consigned to the holder of an importer's license at his licensed premises. The bill of lading covering such consignment shall not be changed or the wine diverted unless such diversion is to another importer, and the board so notified immediately.~~

~~(11) The board may reject any supplier's price filing, contract or memorandum of oral agreement or portion thereof which it deems to be in violation of this or any other regulation or which would tend to disrupt the orderly sale and distribution of wine. Whenever the board shall reject any such price filing, contract or memorandum of oral agreement the licensee submitting said price filing, contract or memorandum may be heard by the board and shall have the burden of showing that the said price filing, contract or memorandum is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of wine. Thereupon if said price filing, contract or memorandum is accepted it shall become effective at a time fixed by the board. If said price filing, contract or memorandum or portion thereof is rejected the last effective price filing, contract or memorandum shall remain in effect until such time as an amended price filing, contract or memorandum is filed and approved, in accordance with the provisions of this regulation.~~

~~(12) All prices, contracts and memoranda filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential.~~

## **Proposed changes to WINE price posting rules to implement SB 6737**

### **How rule would look (without code reviser marks)**

Proposed Revised WAC 314-24-190 Wine supplier and distributor price postings. RCW 66.28.180 requires wine distributors and suppliers to file price postings with the board.

(1) **Definitions**--For the purposes of this section:

(a) A wine supplier means a domestic winery, certificate of approval holder, wine importer licensee, or a distributor selling wine to another distributor.

(2) **Filing deadlines.**

(a) Wine supplier filing deadlines	(b) Wine distributor filing deadlines
All price postings, distributor appointments, written contracts, and memoranda of oral agreements must be received by the board not later than the twenty-fifth day of the month, and if approved will become effective on the first day of the second calendar month following the date of filing.	All price postings must be received by the board not later than the tenth day of the month, and if approved will become effective on the first day of the calendar month following the date of filing.

(c) The board will allow up to an additional five days for revisions of filings to correct errors and omissions filed during the current posting period. The board may in individual cases, for good cause shown, extend the filing date.

(d) When a price posting has been deposited in the United States mail addressed to the board, it will be deemed filed or received on the date shown by the United States post office cancellation mark on the envelope, or on the date it was mailed if it is established to the satisfaction of the board that the actual mailing occurred on an earlier date.

(3) **Filing date exception**--Whenever the tenth day of any month falls on Saturday, Sunday, or a legal holiday, a price posting may be filed not later than the close of business the next business day.

(4) **No changes from previous month**--If a wine supplier or distributor makes no changes in any items or prices listed in the last filed and approved price posting, the prices will remain in effect for each succeeding calendar month until a revised price posting is filed and approved.

(5) **Temporary price reductions**-- If a wine supplier or distributor files price postings that list selected items on which prices are temporarily reduced for one posting period only, these price postings must clearly reflect all items, the selling price, and the posting period for which the price reductions will be in effect. At the expiration of the posting period during which the reductions were in effect, the special price posting will become void and the last regularly filed and effective price posting will again become effective.

(6) **Distributor changes**--

(a) The following guidelines apply when a wine supplier makes a

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distributor change outside of the regular distributor appointment timelines outlined in subsection (2) of this rule:

(i) The supplier must notify the board in writing that he/she wishes to change from his/her current distributor and appoint a new distributor to be effective immediately.

(ii) The new distributor must agree to take the currently posted prices of the old distributor until the new distributor is able to post his/her own prices during the next regular posting period.

(iii) The board does not enforce territory or brand agreements between wine suppliers and distributors. However, if a wine supplier has a territory or brand agreement with a distributor and wants to change a distributor appointed to a certain brand(s) or territory(ies), the board will allow the new distributor to assume the prior distributor's price postings for the brand and/or territory in order to avoid disruption of the market.

(b) A wine supplier must notify the board if any of the contracts or agreements listed in this rule are revised or terminated by either party. The board may immediately authorize a price posting if a wine distributor assumes the wholesale price postings from the previously appointed distributors.

(c) Prices and other conditions of price postings in effect at the time of the distributor change may not be changed until subsequent filing are submitted to the board and become effective.

(7) **Price postings for new wine distributors**--When the board issues a new wine distributor's license, the licensee may file an initial price posting and request that the posting be placed into effect immediately. The board may grant this immediate approval if the posting is in compliance with this rule and with all other applicable laws and rules.

(8) **Accommodation sales**--The provisions of subsection (1) through subsection (8) of this rule do not apply, and filings are not required, when wine distributors make accommodation sales to other wine distributors and these sales are made at a selling price that does not exceed the laid-in cost of the wine being sold. Accommodation sales may only be made when the distributor purchasing the wine is an appointed distributor of the supplier, when the distributor is an authorized purchaser of the brand and product being sold, and when the supplying distributor is appointed by the supplier.

## Current rules:

**WAC 314-24-190 Wine distributor price posting.** (1) Every wine distributor shall file with the board at its office in Olympia a wine price posting, showing the wholesale prices at which any and all brands of wine offered for sale by such wine distributor shall be sold to retailers within the state.

(2) All price postings must be received by the board not later than the tenth day of the month, and if approved will become effective on the first day of the calendar month following the date of such filing. An additional period, not to exceed five days will be allowed for revision of such posting to correct errors, omissions, or to meet competitive prices filed during the current posting period, but a revised posting must be on file at the board office by not later than the fifteenth day of the month in order to become effective on the first day of the next calendar month: Provided, That the board may in individual cases, for good cause shown, extend the date on which the filings required by the rules are to be received by the board.

When any price posting to be filed with the board under the provisions of this rule has been deposited in the United States mail addressed to the board, it shall be deemed filed or received on the date shown by the post office cancellation mark on the envelope containing it or on the date it was mailed if proof satisfactory to the board establishes that the actual mailing occurred on an earlier date.

(3) Filing date exception--Whenever the tenth day of any month falls on Saturday, Sunday or a legal holiday, an original price posting may be filed not later than the close of business the next business day.

(4) In the event that a wine distributor determines to make no changes in any items or prices listed in the last filed and approved schedule, such prices listed in the schedule previously filed and in effect, shall remain in effect for each succeeding calendar month until a revised or amended schedule is filed and approved, as provided herein.

Provision for filing of temporary price reductions--In the event a wine distributor elects to file postings listing selected items on which prices are temporarily reduced for a period of one calendar month only such filing shall be made on special forms provided for such purpose and clearly reflect all items, the selling price thereof, and the month for which the price reductions will be in effect. At the expiration of the month during which such reductions were effective the special filing will become void and the last regularly filed and effective price schedule shall again become effective until subsequently amended pursuant to regular filing dates.

(5) Postings shall be submitted upon forms prescribed and furnished by the board, or a reasonable facsimile thereof, and shall set forth:

(a) All brands, types and sizes of packages or containers of wine offered for sale in this state by such wine distributor, which packages or containers shall be limited to the sizes permitted in WAC 314-24-080.

(b) The wholesale prices thereof within the state, which prices shall include the state wine tax plus surcharge of \$0.2192 cents per liter imposed under RCW 66.24.210 and 82.02.030.

(6) No wine distributor shall sell or offer for sale any package or container of wine at a price differing from the price of such item as shown in the price posting then in effect.

(7) Quantity discounts are prohibited. No price shall be posted which is below acquisition cost plus ten percent of acquisition cost.

(8) Wholesale prices on a "close-out" item shall be accepted by the board when the item to be discontinued has been listed on the state market for a period of at least six months, and upon the further condition that the distributor who posts such a "close-out" price shall not restock the item for a period of one year following the first effective date of such "close-out" price.

(9) If an existing written contract or memorandum of oral agreement between a domestic winery, certificate of approval holder, wine importer, or wine distributor and a distributor, as filed in accordance with WAC 314-24-200, is terminated by either party, and a new written contract or memorandum of oral agreement is made by such a supplier with another wine distributor in the affected trade area, the board, after receiving such new written contract or memorandum of oral agreement, and a corresponding wholesale price posting from the newly designated wine distributor, may put such filings into effect immediately: Provided, That prices and other conditions of any such filings which are in effect at the time of such termination shall not be changed prior to the next applicable filing period.

(10) When a new wine distributor's license is issued for the first time by the board, the holder thereof may file an initial price schedule and request that such posting be placed into effect immediately. The board may grant such approval, providing that such posting is in compliance with all other applicable regulatory requirements, and that contracts and memoranda are on file, in accordance with WAC 314-24-200.

(11) The board may reject any price posting or portion thereof which it deems to be in violation of this or any other regulation or which would tend to disrupt the orderly sale and distribution of wine. Whenever the board shall reject any posting the licensee submitting said posting may be heard by the board and shall have the burden of

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showing that the posting is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of wine. Thereupon if said posting is accepted it shall become effective at a time fixed by the board. If said posting or portion thereof is rejected the last effective posting shall remain in effect until such time as an amended posting is filed and approved in accordance with the provisions of this regulation.

(12) Any wine distributor or employee authorized by his/her distributor-employer may sell wine at the distributor's posted prices to any authorized licensee upon presentation to such distributor or employee at the time of purchase of a special permit issued by the board to such licensee.

(a) Every authorized retail licensee, upon purchasing any wine from a distributor, shall immediately cause such wine to be delivered to his licensed premises, and he shall not thereafter permit such wine to be disposed of in any manner except as authorized by his license.

(b) Wine sold as provided herein shall be delivered by such distributor or his authorized employee either to such retailer's licensed premises or directly to such retailer at the distributor's licensed premises: Provided, however, That a distributor's prices to retail licensees shall be the same at both places of delivery.

(13) All price postings filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential.

[Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. 98-18-097, § 314-24-190, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. 87-15-111 (Order 222, Resolution No. 231), § 314-24-190, filed 7/22/87. Statutory Authority: RCW 66.08.030, 66.98.070 and 66.08.060. 86-16-060 (Order 173, Resolution No. 182), § 314-24-190, filed 8/5/86. Statutory Authority: RCW 66.08.030. 82-16-069 (Order 91, Resolution No. 100), § 314-24-190, filed 8/2/82. Statutory Authority: RCW 66.08.030 and 66.98.070. 81-22-026 (Order 85, Resolution No. 94), § 314-24-190, filed 10/28/81. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. 78-02-056 (Order 62), § 314-24-190, filed 1/20/78, effective 7/1/78; Order 54, § 314-24-190, filed 5/24/77, effective 7/1/77; Order 51, § 314-24-190, filed 12/15/76; Order 26, § 314-24-190, filed 8/14/73; Order 18, § 314-24-190, filed 1/13/72, effective 2/14/72; Order 15, § 314-24-190, filed 5/13/71, effective 7/1/71; Order 5, § 314-24-190, filed 8/7/69, effective 9/8/69; Rule 81, filed 6/13/63.]

**WAC 314-24-200 Wine suppliers' price filings, contracts and memoranda.** (1) Every domestic winery shall file with the board at its office in Olympia a copy of every written contract and a memorandum of every oral agreement which such winery may have with any wine distributor, which contracts or memoranda shall contain a schedule of the prices charged to distributors for all items. Requirements for including or omitting from such prices the wine tax plus surcharge of \$0.2192 cents per liter, imposed under RCW 66.24.210 and 82.02.030, are set forth in subsection (8) of this section. Contracts and memoranda required to be filed under this subsection must list all terms of sale, including all regular and special discounts; all advertising, sales and trade allowances; and all commissions, bonuses or gifts and any and all other discounts or allowances. Whenever changed or modified such revised prices, contracts or memoranda shall be filed with the board, as provided in this regulation.

Each price schedule shall be made on a form prepared and furnished by the board, or a reasonable facsimile thereof, and shall set forth all brands, types, packages and containers of wine offered for sale by such licensed domestic winery; all additional information required may be filed as a supplement to said price schedule forms.

(2) Filing date--All written contracts and memoranda of oral agreements must be received by the board not later than the twenty-fifth day of the month, and if approved will become effective on the first day of the second calendar month following the date of such filing. An additional period will be allowed for revision of such filings to correct errors and omissions, or to meet competitive prices, filed during the current posting period, but a revised contract or memorandum of oral agreement must be on file with the board not later than the first day of the month in order to become effective on the first day of the next calendar month: Provided, That the board may in individual cases, for good cause shown, extend the date on which the filings required by the rules are to be received by the board.

When any price posting to be filed with the board under the provisions of this rule has been deposited in the United States mail addressed to the board, it shall be deemed filed or received on the date shown by the post office cancellation mark on the envelope containing it or on the date it was mailed if proof satisfactory to the board establishes that the actual mailing occurred on an earlier date.

(3) Filing date exception--Whenever the twenty-fifth day of any month falls on Saturday, Sunday, or a legal holiday, an original contract or memorandum of oral agreement may be filed not later than the close of business the next business day.

(4) Exceptions for changes in distributors and newly licensed distributors are set forth in WAC 314-24-190 (9) and (10).

(5) In the event that a domestic winery determines to make no changes in any contracts or memoranda last

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filed and then in effect, such contracts or memoranda shall remain in effect for each succeeding calendar month until revised or amended contracts or memoranda are filed and placed into effect as provided herein.

Provision for filing of temporary price reductions—In the event a licensed domestic winery elects to file postings listing selected items on which prices are temporarily reduced for a period of one calendar month only such filing shall be made on special forms provided for such purpose and clearly reflect all items, the selling price thereof, and the month for which the price reductions will be in effect. At the expiration of the month during which such reductions were effective the special filing will become void and the last regularly filed and effective price schedule shall again become effective until subsequently amended pursuant to regular filing dates.

(6) Prices filed by a domestic winery shall be uniform prices to all distributors on a state-wide basis less bona fide allowances for freight differentials. Quantity discounts are prohibited. No price shall be filed which is below acquisition cost plus ten percent of acquisition cost: Provided, That acquisition cost plus ten percent of acquisition cost shall not apply to sales of wine between a wine importer who sells wine to a wine distributor, or to a wine distributor who sells wine to another wine distributor.

(7) The provisions set forth in subsections (1), (2), (3), (4), (5) and (6) of this section shall also apply to written contracts and memoranda of oral agreements which must be filed with the board by certificate of approval holders who sell wine to wine importers; wine importers who sell to wine distributors; and wine distributors who sell to other wine distributors: Provided, That the provisions of this subsection shall not apply, and filing will not be required, in the instance of wine distributors making accommodation sales to other wine distributors when such sales are made at a selling price not to exceed the laid-in cost of the wine being sold. Accommodation sales may only be made when the distributor purchasing the wine is an authorized purchaser of the brand and product being sold, having been designated as an authorized purchaser by the manufacturer or importer of the product being sold, as demonstrated by an existing contract or memoranda on file and in effect under the provisions of this rule.

(8) The wine tax plus surcharge, imposed under RCW 66.24.210 and 82.02.030, is not to be included in the prices filed as required by subsection (1) of this section by (a) a domestic winery, nor (b) by a certificate of approval holder who is not licensed as a wine distributor, nor (c) a wine importer who is not licensed as a wine distributor.

Every wine distributor who sells wine to another wine distributor shall include such tax in the prices posted on such required schedules.

(9) No domestic wineries, certificate of approval holders, wine importers, or wine distributors shall sell any wine to any persons whatsoever in this state until copies of such written contracts or memoranda of such oral agreements are on file with the board.

(10) Certificate of approval holders may ship wine into this state when the same has been sold and consigned to the holder of an importer's license at his licensed premises. The bill of lading covering such consignment shall not be changed or the wine diverted unless such diversion is to another importer, and the board so notified immediately.

(11) The board may reject any supplier's price filing, contract or memorandum of oral agreement or portion thereof which it deems to be in violation of this or any other regulation or which would tend to disrupt the orderly sale and distribution of wine. Whenever the board shall reject any such price filing, contract or memorandum of oral agreement the licensee submitting said price filing, contract or memorandum may be heard by the board and shall have the burden of showing that the said price filing, contract or memorandum is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of wine. Thereupon if said price filing, contract or memorandum is accepted it shall become effective at a time fixed by the board. If said price filing, contract or memorandum or portion thereof is rejected the last effective price filing, contract or memorandum shall remain in effect until such time as an amended price filing, contract or memorandum is filed and approved, in accordance with the provisions of this regulation.

(12) All prices, contracts and memoranda filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential.

[Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. 98-18-097, § 314-24-200, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. 87-15-111 (Order 222, Resolution No. 231), § 314-24-200, filed 7/22/87; 87-01-014 (Order 207, Resolution No. 216), § 314-24-200, filed 12/9/86. Statutory Authority: RCW 66.08.030, 66.98.070 and 66.08.060. 86-16-060 (Order 173, Resolution No. 182), § 314-24-200, filed 8/5/86. Statutory Authority: RCW 66.08.030. 82-16-069 (Order 91, Resolution No. 100), § 314-24-200, filed 8/2/82. Statutory Authority: RCW 66.08.030 and 66.98.070. 81-22-026 (Order 85, Resolution No. 94), § 314-24-200, filed 10/28/81; Order 54, § 314-24-200, filed 5/24/77, effective 7/1/77; Order 51, § 314-24-200, filed 12/15/76; Order 26, § 314-24-200, filed 8/14/73; Order 15, § 314-24-200, filed 5/13/71, effective 7/1/71; Order 5, § 314-24-200, filed 8/7/69, effective 9/8/69; Rule 82, filed 6/13/63.]